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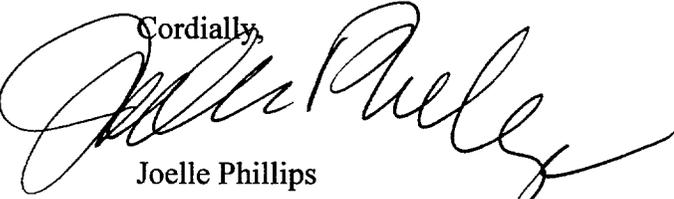
VIA HAND DELIVERY

Mr. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: *In the Matter of Notice of Rulemaking Amendment of Regulations for Telephone Service Providers*
Docket No. 00-00873

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Comments on Proposed Rules for Telephone Service Providers. Copies have been served on all parties of record.

Cordially,

Joelle Phillips

JP/jej

Enclosure

CERTIFICATE OF SERVICE

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

In Re: *In the Matter of Notice of Rulemaking Amendment of Regulations for Telephone Service Providers*

Docket No. 00-00873

**BELLSOUTH TELECOMMUNICATIONS, INC.'S COMMENTS
ON PROPOSED RULES FOR TELEPHONE SERVICE PROVIDERS**

BellSouth Telecommunications, Inc. ("BellSouth") files these comments addressing the proposed amendment of regulations for telephone service providers. BellSouth has participated with members of the Industry in preparing a consensus filing addressing only those issues as to which the Industry members reached consensus positions and files these separate comments to address the following issues:

I. Imposition Of The Amended Regulations Is Unnecessary And Inconsistent With Competition.

Customer satisfaction is the barometer of service in a competitive environment. Imposition of regulations to govern service undercuts the natural market process, which provides the competitive incentive to satisfy customers. Given the TRA's emphasis on promoting competition in Tennessee, the proposed regulations are an inappropriate throw-back to pre-competition-era regulatory methods for maintaining telecommunications service standards in Tennessee. Moreover, imposition of these regulations may well dampen competition by creating unnecessary barriers to entry into the market. The market should be given the chance to work -- to give customers the benefit of the market-incentive to please the consumer.

Telecommunications consumers in Tennessee are not currently experiencing declining levels of service by their telecommunications providers. Rather, in the new competitive environment, customer service is more important than ever to telecommunications carriers. To

the extent that the proposed amendments are designed to prevent a future decline in service, the TRA should, instead, allow the marketplace to continue to provide the incentive for excellent service.

II. Service Standards Set By The Tennessee Regulatory Authority, For Those Telephone Companies Operating Pursuant To Price Regulation Under T.C.A. § 65-5-209, May Not Require Such Carriers To Operate At A Level Of Quality Greater Than That Being Provided On June 6, 1995.

On June 20, 1995, BellSouth applied for price regulation as provided in T.C.A. § 65-5-209. BellSouth's application was granted December 9, 1998 and effective as of October 1, 1995. Pursuant to T.C.A. § 65-5-208(1), as a price-regulated carrier, BellSouth shall provide service at the same level of quality as was being provided on June 6, 1995. The statute specifically establishes the level of service that can be required of a price-regulated carrier. Accordingly, the TRA lacks the statutory authority to impose more burdensome requirements on telephone companies operating under price regulation than those standards that are consistent with the level of service quality being provided on June 6, 1995, as expressly established by the statute.

It is well-settled under Tennessee law that the TRA must conform its actions to its enabling legislation. *BellSouth Advertising & Publishing Corp. v. TRA*, 2001 Tenn. App. LEXIS 102, *29 (Tenn. App.). Moreover, courts have held that the broad grant of regulatory jurisdiction contained in the statute should not be construed so liberally as to grant powers to the TRA beyond those either expressly granted by the statute or arising by necessary implication from express language contained in the statute. *Id.* (citing *Pharr v. Nashville, C. & St. L. Ry.*, 208 S.W.2d 1013, 1016 (Tenn. 1948); *Tennessee Carolina Transp., Inc. v. Pentecost*, 334 S.W.2d 950, 953 (Tenn. 1960); *Nashville Chattanooga and St. Louis Ry. v. Railroad and Public Utilities Commission, et al.*, 15 S.W.2d 751 (Tenn. 1929); *Tennessee Public Service Comm. v. Southern*

Ry. Co., 554 S.W.2d 612, 613 (Tenn. 1977)). Notwithstanding the language contained in T.C.A. § 65-4-106 instructing that the powers of the TRA are to be broadly construed, as noted above, Tennessee courts have declined to use this provision to establish powers for the TRA that are not provided by or closely related to an express grant of statutory authority.

It is perfectly clear that the statute does not allow the imposition of service standards more rigorous than those in place when BellSouth's plan was adopted. That statutory language should put the matter to rest. However, just for the sake of completeness, it may be beneficial to address the theoretical underpinnings of the concept contained in the statute, because that logic explains very clearly why more onerous standards should not be imposed.

Specifically, the price regulation statute presumes that local rates at the 1995 level were affordable for purposes of price regulation. The price regulation statute establishes a process for adjusting affordable basic rates based on inflation. Allowing this increase in local rates to account for inflation has the effect of offsetting any increase in costs that inflation causes. By doing so, the statute strikes a careful balance between increased costs and increases in rates. If the TRA were to be allowed to impose additional costs on BellSouth, or any company subject to price regulation by imposing more stringent service standards, BellSouth would be required to incur government-imposed costs for which no recovery mechanism is provided. That is, by imposing regulations on BellSouth which would, in essence, require it to provide service greater than that being provided in 1995 (with correspondingly higher costs), while BellSouth's rates are premised on the service levels in 1995, the TRA would undermine a basic premise of the price regulation statute. The TRA cannot, consistent with the statute, require BellSouth to provide additional service under the price regulation statute without allowing BellSouth to charge higher rates to pay for such changes in its service.

The regulations proposed by the TRA Staff on August 16, 2001, in numerous instances, would impose requirements on BellSouth to provide service at a level greater than that provided by BellSouth on June 6, 1995.¹ Accordingly, in each instance in which the regulations impose such a requirement, the TRA would exceed its statutory authority by promulgating such a rule. BellSouth and other Industry members have worked extensively with the TRA Staff to reach agreement as to appropriate service standards. Unfortunately, ultimate resolution could not be reached. Having reached no agreement, BellSouth objects to the imposition of any standard exceeding the 1995 benchmark.

While the Industry has participated in several workshops to discuss the various areas addressed by the proposed rules, and engaged in extensive discussion with the TRA Staff, there has been no process in which evidence has been submitted that could establish the factual basis for the specific requirements being proposed by the TRA. Accordingly, there has been no opportunity provided to the Industry to refute the basis for the specific requirements contained in the proposed regulations or to establish that the proposed regulations impose requirements well beyond the performance of 1995 and, in some cases, impose requirements that are not feasible or would not result in improved service to consumers. Without such an opportunity to argue the

¹ Based upon the standards as proposed by the Staff on August 16, 2001, BellSouth would have been in violation for its performance during the year ending December 31, 1995, in numerous instances including:

1220-4-1-.16(1)(e), (f), (g) - Trouble Reports Per 100 Access Lines - BellSouth would have been in violation of 26 exchanges and incurred annualized penalties exceeding \$3,000,000.

1220-4-2-.04(2) - Customer Refunds for Service Outages and Delayed Installation of Local Service -- BellSouth would have incurred penalties exceeding \$1,400,000 for its 1995 performance.

evidentiary basis² for the proposed rules, the promulgation of such rules is arbitrary and due process is denied to those regulated by the rules.

The promulgation of amended regulations for telephone service providers has not resulted from any specific finding or complaint regarding the current level of service provided by BellSouth. Rather, the process of amending the regulations has been borne out of concerns expressed by the FCC over events in other regions. Accordingly, this effort is not driven in response to existing problems in Tennessee. The implementation of new rules is clearly intended to prevent deterioration in service in the future, rather than to remedy an existing problem with the level of service being provided. The proposed regulations expressly recognize this, stating that the "regulations are intended to ensure that telecommunications customers in Tennessee continue to have access to quality telephone services in an emerging competitive telecommunications environment." Proposed Rules at 1220-4-2-.02.

BellSouth's service is currently comparable to the service provided in 1995 and, in many respects, BellSouth's service now exceeds the quality provided in 1995. Notwithstanding this level of service, the imposition of the proposed regulations as drafted would result in immediate penalties to BellSouth.³ Thus, as proposed, the regulations are punitive in nature, contrary to

² For example, with respect to 1220-4-1-.16(1)(b) - Installation of Primary Service Orders, the TRA Staff has relied upon ARMIS data reported on an annualized, statewide basis to extrapolate a standard that is measured on a monthly basis by exchange. Accordingly, the resulting standard, premised upon this "apples-to-oranges" comparison, imposes a service requirement that is arbitrary.

³ BellSouth reiterates that the Industry Consensus comments, as set forth in Attachment "A," must be read in their entirety, as each provision is inter-related. As noted on the Industry filing, BellSouth would oppose additional provisions in the event that the TRA rejected all of the revisions contained in Attachment "A." Many of these additional objections would be based on the imposition of service standards exceeding the 1995 standard.

both T.C.A. § 65-5-208(1) and to the stated intent in proposed Section 1220-4-2-.02, and punish BellSouth for providing service at a level that is expressly permitted by Tennessee statute.

BellSouth respectfully submits that the proposed rules, if promulgated, would exceed the authority vested in the TRA by the statute, and BellSouth expressly requests an evidentiary hearing to (1) establish that such rules would impose requirements on BellSouth to perform at a level exceeding the performance as of June 6, 1995, and (2) to challenge the underlying information and calculations upon which the proposed rules are based.

III. The Proposed Regulations Cannot Impose Obligations On Carriers Greater Than Those Contemplated By The Telecom Act.

Substantial portions of the proposed rules apply to "ETCs," which are defined as those designated by the TRA as qualified to receive state or federal Universal Service support for a service area specified by the Authority or the Federal Communications Commission. The rules appear to presume that all carriers eligible for such status may be regulated as though they are not only qualified to receive such funds but actually utilizing that qualification to obtain such funds. The regulations make no provision for circumstances under which an eligible carrier may, under federal law, relinquish its ETC designation. In the event of such waiver, the TRA would act beyond its authority to the extent that it imposed carrier of last resort-type obligations on all entities that are eligible to be ETCs, but that relinquish that designation. In short, BellSouth expressly preserves its right to assert in the future that it cannot be deemed an ETC for the purpose of regulation, should it relinquish that designation pursuant to 47 C.F.R. § 54.203.

IV. Bellsouth's Objections To Specific Proposed Rules.

BellSouth objects to numerous provisions of the proposed rules. BellSouth has set out, in "red-line" format, its comments concerning the proposed regulations in Attachment "A."

Without waiving any of those objections, BellSouth provides the following discussion of several provisions of the proposed rules as to which BellSouth wishes to provide special emphasis:

A. 1220-4-1.01 - Definitions.

BellSouth's objections to specific definitions are set out in Attachment "A." Many of these objections address the use of terms in a fashion inconsistent with either state or federal statutes or former service standards regulations, creating the potential for confusion. In particular, BellSouth objects to the definitions concerning trouble reports contained in both subsection (18) and (26) of the definitions. As these terms are defined, the corresponding regulations addressing trouble reports would impose obligations on BellSouth to perform at a level far above that provided in 1995.

B. 1220-4-2-.04 - Customer Refunds for Service Outages and Delayed Installation of Their Local Service.

BellSouth objects to the language as proposed by the TRA and instead proposes the language provided in Attachment "A." BellSouth objects to the requirement contained in this subsection that BellSouth provide adjustments for disruption in service not caused by BellSouth. Moreover, the dollar amount of credit imposed by subsection (1)(b) is arbitrary and would exceed any similar credit provided in 1995. No basis or evidence has been advanced demonstrating that such onerous penalties are necessary to maintain service at the current level or the level experienced in 1995 or that the specific credits rationally relate to the quality of responses to service outages. In addition, the process of providing credits without request of a customer will create administrative burdens that are unreasonable.

C. 1220-4-2-.05 - Customer Security Deposits.

BellSouth objects to the regulations as noted in Attachment "A." As drafted, this provision of the proposed rules prohibits BellSouth from taking into consideration all of the relevant information in seeking an appropriate customer security deposits. The restrictions in this rule are inconsistent with the practice that existed in 1995. Moreover, the provision prohibits the consideration of toll charges in the determination of the customer security deposit notwithstanding the fact that the local carrier is, in many cases, responsible for billing and collecting such charges.

D. 1220-4-2-.06 - Disconnection of Local Service.

BellSouth objects to the provision as set forth in Attachment "A." As drafted, the provision prohibits BellSouth from terminating service on the basis of unpaid toll charges. As BellSouth has previously noted, the requirement that a service provider continue providing service when the customer does not pay is patently unfair. Not only is this unfair to the interexchange carrier ("IXC") with whom the toll charges are associated, but it is also unfair to the local exchange company who bills for the IXC and who bears the burdens associated with collection efforts. To the extent that such rules are imposed by the TRA, it is clear that the additional costs associated with billing and collecting would ultimately be borne by those customers who do pay their bills.

This subsection also prohibits the disconnection of service to a party who has guaranteed the bill of another party and who has failed to pay on that guarantee. Such a rule will no doubt affect the policies of utilities who currently waive deposits for parties when another person guarantees payment. In particular, this practice is common in the case of students or young

customers who are just beginning to establish accounts with utilities. These consumers will suffer to the extent that this rule makes such a practice unreasonably risky for the carrier.

E. 1220-4-2-.07 - Termination of Service to a Reseller by an Underlying Carrier or Cessation of Service by a Local Telecommunications Service Provider.

BellSouth objects to the provision as set forth in Attachment "A". Subsection (7) requires soft dial tone to be provided under certain circumstances following disconnection of the reseller's service. This provision is another instance in which the regulations would require services to be provided in excess of those provided in 1995. Moreover, the proposed regulation requires the use of BellSouth's facilities without compensation and thus results in an impermissible taking.

This subsection also requires oral notice to customers prior to cessation of service, which is overly burdensome, beyond what the FCC requires, and simply not feasible in many cases.

F. 1220-4-2-.08 - Privacy of Customer Information.

BellSouth objects to the provision as written. As drafted, this rule could prohibit such routine practices as the publication of the telephone directory without first obtaining express permission from each customer. Moreover, the prohibition on providing information except when "required" by law could prohibit the provision of data to law enforcement in emergencies were allowed, but not required, by law.

G. 1220-4-2-.09 - White Pages Directories.

BellSouth objects to the provision as drafted as noted in Attachment "A." As drafted, the rule requires the interception of calls to a customer's old number and the provision of the new telephone number to all callers, unless instructed otherwise by the customer whose number has been changed. This rule shifts the burden to those who do not want their new number provided to all callers to inform carriers to refrain from doing so. Besides imposing additional

administrative burdens on local carriers, this provision creates the likelihood of providing such information in situations in which the customer fails to inform the carrier of its intent to keep such information private but nonetheless needs such privacy maintained. In particular, this provision gives rise to concerns regarding the safety of persons who change their telephone number in response to some threat of violence, in the event such a customer mistakenly fails to inform the carrier to keep the information private. The provision of the new number to every calling party could result in precisely the situation which has motivated the customer to seek a new telephone number.

H. 1220-4-2-.14 - Payment for Services.

BellSouth objects to the provision as set forth in Attachment "A." As drafted, the provisions require the service provider to assume the administrative burden and costs of providing payment options to customers, whether or not the market demands such options. In particular, as payment options for on-line payment and computerized banking become more and more prevalent, this section is unreasonably rigid in that it would prevent a local telecommunications service provider from providing those new methods for payment to the extent that the provision of such method was impracticable without the assessment of an additional fee.

I. 1220-4-2-.16 - Service Obligations for Eligible Telecommunications Carriers.

BellSouth objects to the provisions as set forth in Attachment "A." The service obligation subsection unduly penalizes an ETC to the extent that service is affected by events beyond the control of the ETC. Clearly, the imposition of fines or penalties arising out of acts beyond the control of the party to be fined, would be arbitrary on its face. Moreover, as to the specific requirements outlined in the various subsections addressing service obligations, these

provisions require performance at a level which bears no rational relation to the current level of service or the level of service in 1995. No basis has been provided for the proposed numerical standards, and the imposition of such standards would currently result in the imposition of penalties, notwithstanding the stated intent of the regulations not to punish for current service but to prevent a decline of service in the future.

J. 1220-4-2-.17 - Quality of Service Mechanisms ("QSMs") for ETCs.

BellSouth objects to the provision as set forth in Attachment "A." As with the prior section, BellSouth's objections to subsection .17 arise out of the imposition of penalties in instances beyond the control of the ETC and object to the use of arbitrary numerical standards contained within these provisions.

K. 1220-4-2-.18 - Lifeline and Link-Up.

BellSouth objects to the proposed regulation as set forth in Attachment "A." As an initial matter, BellSouth objects to any service standards regulations concerning the Lifeline and Link-Up programs in these regulations on the basis that the programs are driven by federal issues. The imposition of a separate set of state instructions or regulations will result in needless confusion and will require constant updating to keep consistent with changing federal guidelines.

Specifically, BellSouth objects to the addition of new qualifying programs as set forth in subsection (1)(a). These additional programs would not necessarily allow for the same verification process as would be applicable to the other programs. Moreover, there is no evidence to suggest that anyone qualifying for the original five programs would not also qualify for the additional programs. Accordingly, the addition of those programs is simply duplicative.

BellSouth also objects to the requirement in subsection (7)(b) that at the time of request for installation of new local service or transfer of existing local service, the carrier must inform

residential customers of the availability of programs such as Lifeline and Link-Up. This requirement will dramatically increase hold times for other customers and may, in many instances, be unpalatable to those customers who clearly do not qualify for such assistance programs.

L. 1220-4-2-.19 - Telephone Numbering Conservation.

BellSouth objects to the inclusion of this provision in its entirety because it is duplicative of federal requirements. The inclusion of the reference to this process in the service standards will result in the need to frequently revise the service standards for consistency with the federal program.

V. Conclusion.

For the reasons articulated above, BellSouth respectfully urges the Authority to either implement the regulations as revised and set forth in Attachment "A," or grant an evidentiary hearing at which the factual basis for the proposed regulations can be determined and evidence can be presented concerning the performance level existing in 1995.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

Guy M. Hicks

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Nashville, Tennessee 37201-3300

(615) 214-6311

ATTACHMENT "A"

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *In the Matter of Notice of Rulemaking Amendment of Regulations for
Telephone Service Providers*

Docket No. 00-00873

INDUSTRY COMMENTS ON PROPOSED RULES

Members of the telecommunications industry, including Association of Communication Enterprises, AT&T, BellSouth Telecommunications, Inc., Citizens Communications, MCI WorldCom, Inc., NewSouth Communications Corporation, Southeastern Competitive Carriers Association, Sprint Communications Company L.P., TDS Telecom, Time Warner Telecom of the Mid-South, L.P., United Telephone Company, United Telephone-Southeast, Inc., and XO Communications ("Industry") provide these comments indicating revisions to the TRA's proposed service standards rules. The revisions proposed by the Industry are interrelated to other provisions throughout the document. Accordingly, in the event such revisions are not adopted by the TRA, the Industry would oppose various other provisions regarding which no suggestion for revision is indicated in this draft. Stated simply, the Industry has attempted to raise objections to as few of the standards as possible; however, in the event its revisions are not accepted, various other provisions of the proposed rules would be objectionable to the Industry.

This document represents the consensus of the Industry Members on objectionable provisions to the service standards rules as proposed by the TRA on August 16, 2001. Individual members of the Industry may have other objections, comments or suggestions for revisions which each individual entity will raise by separate comment or pleading. Specifically, there are members of the Industry, which find some of the proposed rules objectionable while those same provisions are acceptable to others as proposed by the TRA Staff. While no notation of such provisions is contained in this draft, such provisions will be addressed, by separate pleading, by the objecting party. By participating in this consensus filing, no member of the Industry is waiving its right to raise individualized objections in a separate pleading.

Substance of Proposed Rules

Amendments

Chapter 1220-4-2 Regulations for telecommunications service providers is amended by deleting Rules 1220-4-2 -.01 through .42 of the chapter in their entirety and substituting the following new rules:

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1220-4-2-.01 Definitions

- (1) "Applicant" means a person requesting telephone service through Lifeline or Link-up.
- (2) "Authority" or "TRA" means the Tennessee Regulatory Authority.
- (3) "Carrier of Last Resort Obligations" means the requirements imposed by order of the Authority pursuant to Tenn. Code Ann. § 65-5-207(a) to provide services that are supported by Federal and/or State universal service support mechanisms to an unserved person within the providers authorized serving area that requests such services.
- (4) "Customer" means any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., provided with telephone service by a telecommunications service provider.
- (5) "ETC" means an eligible telecommunications carrier as designated by the Authority as qualified to receive state or federal universal service support for a service area specified by the Authority or the Federal Communications Commission.
- (6) "Exchange" means a specified area established and set forth in its approved tariffs by ~~an incumbent provider of local service~~ **a telecommunications service** provider that is used for the administration of telephone service and usually embraces a city, town or village and its environs. An exchange consists of one or more central offices together with associated plant used in the furnishing of communication service within that area.

- (7) "Incumbent Local Exchange Telephone Company" means a public utility offering and providing local service as defined by Tenn. Code Ann. § 65-5-208(a)(1) pursuant to tariffs approved by the Tennessee Public Service Commission prior to June 6, 1995.
- (8) "Lifeline" means a telephone assistance program whereby qualified customers may obtain a credit on their monthly bill for local service upon the applicant meeting certain income-based criteria.
- (9) "Link-up" means a telephone assistance program whereby qualified customers may obtain a credit on the one-time charge for the installation or the transferring of telephone service upon meeting certain income-based criteria.
- ~~(10) "Local Number Portability" or "LNP" means the ability of customers to retain, at the same location, existing local telephone numbers without impairment of quality, reliability, or convenience when changing from one telecommunications carrier to another.~~
- (11)(10) "Local Service" means basic local exchange telephone service as defined in Tenn. Code Ann. § 65-5-208(a)(1).
- ~~(12) "NANPA" means the North American Numbering Plan Administrator appointed by the Federal Communications Commission to oversee the administration of the telephone numbering system for North America.~~
- ~~(13) "Numbering Resources" means the telephone number prefix (NXX) assigned to telecommunications service providers by the NANPA.~~
- (14)(11) "Peak-Traffic Hour" means the period of the day during which the greatest volume of traffic is handled in a telephone central office.
- (15)(12) "Primary Service" means the initial provisioning of dialtone for any telephone line at any customer premises. Only one line at a customer premises can be considered a "primary" line.
- (16)(13) "Quality Service Mechanisms" or "QSM" means a measurable standard for ETCs relative to the timely provisioning of quality telephone services, violation of which by repeatedly failing to provide such quality telephone service within a reasonable timeframe automatically mandates compensation to ETC customers within an affected exchange or to the Authority.

- (17)(14) "Rate Center" means a geographic location used by telecommunications carriers to establish the point to point mileage required for accurate and consistent billing for both local and toll calls.
- (18)(15) "Repeat Trouble Report" means any oral or written report from a customer relating to a physical defect, problem or dissatisfaction with the operations of telephone facilities, which are reported within thirty (30) days of the customer's service provider having resolved a prior trouble report filed by a customer with regard to the same telephone facilities. If the cause of the trouble report is separate and distinct from the cause of the prior trouble report, the subsequent trouble report shall not be deemed to be a "Repeat Trouble Report."
- (19)(16) "Reseller" means a telecommunications service provider which purchases telecommunications services from another telecommunications service provider for the purposes of reselling telecommunications services to the public.
- (20) ~~"Sequential Number Assignment" means the assignment of telephone numbers within one 1,000 number block prior to assigning telephone numbers from another unused 1,000 number block of numbers.~~
- (21)(17) "Service Area" means the geographic area in which a provider of local service provides telecommunications services within the State of Tennessee.
- (22)(18) "Soft Dialtone" means local service limited to access to emergency 911 service.
- (23)(19) "Tariff" means the entire body of rates, tolls, charges, classifications and terms of a telecommunications service provider filed with and approved by the Authority.
- (24)(20) "Telecommunications Service Provider" means any provider of telecommunications service as defined in Tenn. Code Ann. §65-4-101(c) and includes, but is not limited to, incumbent local exchange telephone companies, competitive telecommunications service providers, interexchange carriers and resellers.
- (25)(21) "Telephone Assistance Program" means Lifeline and Link-up.
- (26)(22) "Trouble Report" means any oral or written notification from a customer relating to a physical defect, problem or dissatisfaction with the operations of telephone facilities. ~~One report shall be counted for each oral or written trouble report received even though it may duplicate a~~

~~previous report or merely involve an inquiry concerning progress on a previous report provided that the additional report occurs greater than thirty (30) hours since the initial report.~~ **One report shall be counted for each oral or written trouble report received except to the extent it duplicates a previous report or merely involves an inquiry concerning progress on a previous report.** ~~A separate trouble report shall be counted for each problem reported when several problems are reported by one customer at the same time, unless the group of problems so reported is clearly related to a common cause.~~

(27) ~~"Uncontaminated 1,000 Number Blocks" means a block of 1,000 telephone numbers from which no individual telephone numbers have been assigned.~~

(28)(23) "Underlying Carrier" means the telecommunications service provider supplying the telecommunications services that a reseller of local service or long distance service provides to the public.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-101, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-208, 65-5-207, 65-21-114.

1220-4-2-.02 Scope of Regulations

The purpose of this Chapter is to promulgate minimum quality of service standards and general regulations for all telecommunications service providers. These regulations are intended to ensure that telecommunications customers in Tennessee continue to have access to quality telephone services in an emerging competitive telecommunications environment. This Chapter intends to balance Tennessee's policy of promoting competition in the telecommunications sector with the service quality expectations and privacy concerns of its citizens.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.03 Records and Reports

(1) Location of Records.

Unless otherwise authorized by the Authority, all records of telecommunications service providers required by this Chapter or any other Authority rule shall be kept within the State or shall be made available to the Authority or its authorized representative upon request at no cost in either paper or electronic form. If out-of-state travel is required by the Authority to view such records, the telecommunications service provider shall reimburse the Authority for reasonable travel expenses.

(2) Retention of Records

Telecommunications service providers shall maintain sufficient records necessary to verify and substantiate all requirements of this Chapter. These records include, but are not limited to: trouble reports, service orders, itemized customer billing records, customer deposits and customer complaints. All records required by this Chapter shall be retained for a period of two (2) years unless otherwise ordered by the Authority.

(3) Out-of-Service Report

Each telecommunications service provider offering local service is required to provide the Authority a paper or electronic report regarding disruptions of service when 1000 or more customers lose service within an exchange for more than four (4) hours. Such out-of-service report shall be submitted to the Authority within thirty (30) days of the incident and shall describe the disruption, the number of customers affected, and what actions the telecommunications service provider has taken to prevent a similar disruption of service from occurring again.

(4) Tariffs

- (a) Each telecommunications service provider shall file with the Authority tariffs that set forth the rates, terms and conditions under which services will be provided as prescribed in Chapter 1220-4-1.
- (b) Each telecommunications service provider shall make a copy of its state-approved tariffs available for public inspection at its business offices during regular business hours. Public inspection shall include, but is not limited to, having a copy of the tariffs available on the Internet.

(5) Exchange Maps

Each incumbent local exchange telephone company shall file with the Authority an exchange area map for each of its exchanges within the state clearly showing the boundary lines in sufficient detail to locate the exchange service area in the field. Other providers of local service shall provide to the Authority, upon request, information in sufficient detail to allow the Authority to locate its service area in the field.

(6) Wireline Reports

In order to allow the Authority to monitor the evolution of local competition within Tennessee, each telecommunications service provider

shall provide to the Authority a summary of its wireline activity within the State in a format and schedule established by the Authority until the Authority deems it unnecessary. **Because these reports contain confidential information, they shall be treated as proprietary by the TRA. No report is required to be filed under this subsection until an appropriate protective order is entered by the TRA and in place.**

(7) Telephone Number Utilization Reports

Each telecommunications service provider assigned number resources shall provide telephone number utilization data to the Authority on the forms provided by the Authority, as authorized by the Federal Communications Commission.

(8) Service Reports

Each telecommunications service provider shall furnish to the Authority, **upon reasonable notice and in the form the Authority may reasonably request,** ~~at such time and in such form~~ the results of any tests, summaries or records or any other information as the Authority may ~~require~~ **reasonably request.**

(9) Adequacy of Service Reports

Each ETC shall submit to the Authority quarterly reports in a format established by the Authority to demonstrate the ETCs compliance with the service standards set forth in 1220-4-2-.16. The reports shall be itemized by month by local exchanges. The Authority may conduct periodic audits or require the ETCs to hire an independent firm to verify the accuracy of service standard reporting.

(10) Service Trouble Reports

Each telecommunications service provider shall maintain an accurate record of trouble and repeat trouble reports made by its customers. The record shall include the customer name, the time, date and nature of the trouble along with the action taken by the telecommunications service provider to resolve the trouble or satisfy the complaint. These records shall be made available to the Authority or its authorized representative upon request.

(11) Miscellaneous Reports

Upon reasonable notice, a telecommunications service provider shall provide any other report or **reasonable** request for data ordered by the Authority or requested by the Staff through the Executive Secretary's office.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.04 Customer Refunds for Service Outages and Delayed Installation of New Local Service

- ~~(1) In the event a customer's local service is disrupted and service is not restored within thirty (30) hours from the time of the report, the following adjustments or credits shall be automatically issued to the affected customer by the telecommunications service provider:~~
- ~~(a) If a disruption in service is caused by an act of God or civil disturbance, the customer's bill shall be adjusted on a prorated basis within two billing cycles of the date of disruption for the time the service is out.~~
- ~~(b) If a disruption in service is caused by any other reason not mentioned in 1220-4-2-.04(1)(a), the customer's bills shall be adjusted within two billing cycles of the date of interruption \$5.00 per day until the service is restored, unless a larger credit is allowed under the telecommunications service provider's approved tariffs. Such credit shall not exceed \$50.00 for any one (1) month.~~
- ~~(2) A telecommunications provider shall waive normal installation charges for its customers if it fails to install local service on the committed date. Normal installation charges do not include charges for work such as wiring inside the customer's residence or business.~~

In the event the customer's local service is interrupted other than by negligence or willful act of the customer, acts of God, or acts of a third party and it remains out of order in excess of 30 hours after being reported, appropriate adjustments or refunds shall be made to the customer, upon the customer's request. The refund to the customer shall be the pro rata part of the month's charges for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on the subsequent bill for telephone service.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.05

Customer Security Deposits

- (1) ~~A provider of local service shall not require a security deposit for the establishment of local exchange telephone service other than as provided for in its tariffs on file with the Authority. The maximum amount for a security deposit shall not exceed two (2) times the average monthly charge for local service for customers receiving similar service.~~ **No security deposit shall be required as a condition for service other than as provided in local Telecommunications Service Provider tariffs on file with the Authority. The maximum amount for deposits shall be calculated on the amount of security needed to ensure payment of an average of two (2) months service charges, (including optional services and excluding toll charges), if the customer agrees to subscribe to a toll blocking service or, if the customer refuses toll blocking service, then the amount of security shall be the average of two (2) months tariffed charges (including optional services and toll charges).**
- (2) A telecommunications service provider shall refund, with interest as required in paragraph three (3), any security deposit paid by a customer upon the customer's having established a satisfactory payment history or when the customer's service is terminated. A satisfactory payment history means that the customer has paid his or her telephone bill on time for eleven (11) out of the previous twelve (12) months and has not had service disconnected for non-payment or made payment with a check with insufficient funds.
- (3) Deposits shall accrue at a simple interest rate of no less than six percent (6%) per annum.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.06

Disconnection of Local Service

- (1) Local exchange telephone service may be denied, discontinued or interrupted for any of the reasons listed below:

- (a) ~~Non-payment of the local service portion of a customer's bill for telecommunications services, as well as regulated optional services provided by the customer's telecommunications service provider.~~
For non-payment of undisputed charges for tariffed services (including optional services and toll charges).
 - (b) Customer use of equipment in such manner as to adversely affect the telecommunications service provider's ability to provide service to other customers.
 - (c) Customer violation of any state or municipal law, ordinance, approved tariff or regulation pertaining to telephone services.
 - (d) Failure of a customer to provide reasonable access to the equipment of the telecommunications service provider.
 - (e) Unauthorized, unlawful or fraudulent use of telecommunications service.
 - (f) In the event of a condition determined by the local telecommunications service provider to be hazardous or dangerous.
 - (g) Non-payment of bundled telecommunications services offered by a local telecommunications service provider exclusively offering local service on a bundled basis.
- (2) Except for those situations described in 1220-4-2-.06(1)(b),(c),~~(e)~~, and (f) above, any disconnection of local service requires a ~~fifteen (15)~~ **five (5)** day prior written notice of the disconnection to the customer.
- (3) The following shall not be grounds for the disconnection or denial of local service:
- (a) Non-payment of ~~toll service or~~ any unregulated charges, including but not limited to yellow page advertising, telephone equipment, Internet service and 900 pay-per-call services, listed on the customer's telephone bill.
 - (b) Delinquency in payment of a previous bill by a present occupant who was delinquent at another address and subsequently joined the household of a customer in good standing.
 - ~~(c) Failure to pay the bill of another customer where the customer has agreed to act as guarantor of such payment.~~

- (d)(c) Failure to pay for business service at a different location and different telephone number shall not constitute sufficient grounds to disconnect or refuse residential local service.
- (4) When disconnecting any customer's local service a telecommunications service provider shall not disconnect local service on a day or a preceding day that the telecommunications service provider's personnel are not available to make payment arrangements, accept payment and reconnect the customer's local service.
- (5) A customer's local service shall not be disconnected while the Authority is investigating a complaint, **relating to the circumstances underlying the disconnection**, registered by the customer, unless authorized by the Authority for good cause shown.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.07 Termination of Service to a Reseller by an Underlying Carrier or Cessation of Service by a Local Telecommunications Service Provider

- (1) Prior to an underlying carrier terminating service to a local or long distance reseller:
- (a) The underlying carrier shall provide no less than thirty (30) days written notice to the reseller that service will be terminated on a date certain.
- (b) The underlying carrier shall provide to the Authority no less than thirty (30) days written notice of the pending termination of local service along with the reason(s) for such action.
- (c) The underlying carrier shall provide a soft dialtone to each affected customer of the local reseller for ~~fifteen (15) days following termination of the reseller's service~~, **where available, to the customers of the reseller for at least fourteen (14) days following disconnection of the reseller's service**, or until the customer selects another provider of local service, whichever is less.
- (d) The reseller shall notify its customers either in writing or by voice communications no less than ~~fifteen (15)~~ **five (5)** days prior to the pending termination of its local service, and advise its customers of the need to contact another telecommunications service provider to

continue local and/or long distance service after a certain date. The reseller shall also provide any information, if available, that may assist the customer in selecting another telecommunications service provider.

- (e) The reseller shall refund to its customers any credits due as a result of the termination of service within thirty (30) days of the termination of the service.
- (2) Prior to a local telecommunications service provider ceasing to provide local service to all or any portion of its customers in Tennessee:
- (a) The provider of local service shall provide to the Authority no less than thirty (30) days written notice of the pending cessation of service along with the reason(s) for the action and the number and location of customers affected.
 - (b) The provider of local service shall provide its customers no less than a thirty (30) day written notice that service will cease on a date certain along with information, if available, that may assist the customer in selecting another telecommunications service provider.
 - ~~(c) The provider of local service shall provide an additional oral notification to each customer at least five (5) business days prior to such cessation of service.~~
 - (d)(c) The provider of local service shall provide a soft dialtone to the customers for ~~fifteen (15)~~ **fourteen (14)** days following cessation of service or until the customer selects another provider of local service, whichever is less.
 - (e)(d) Any ETC seeking permission from the Authority to surrender its ETC designation, shall continue to provide local telecommunications services in Tennessee until its request is approved by the Authority.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.08

Privacy of Customer Information

Telecommunications service providers have a duty to protect the confidentiality of their customers' personal information as defined in 47 U.S.C. § 222(h)(1)(2)(3). Except as required by law, telecommunications service providers shall not

otherwise disclose their customers' information without the prior approval of the customer.

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Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.09 White Page Directories

- (1) Each incumbent local exchange telephone company shall regularly publish, or cause to be published, white page telephone directories which shall contain the name, address and telephone number of all customers, except public telephones and those customers who have notified their telecommunications service provider not to list such information.
- (2) Each provider of local service shall take reasonable steps to ensure that its customers are listed in a published telephone directory, for the particular local calling area, unless notified by the customer to exclude his or her listing, and shall make available free of charge to its customers a white page telephone directory encompassing the customer's local calling area. Directories for areas outside the local calling area shall be made available to the customer for a reasonable cost.
- (3) In the event of a listing error, including the omission of a customer listing, the telecommunications service provider shall provide without charge, upon the request of the customer, an intercept service, provided existing central office equipment has such capability and the number is not in service, for up to one (1) year or until a new white page directory is published, whichever is less.
- (4) The Authority's toll-free telephone number and Internet address as well as any other numbers deemed appropriate by the Authority shall be listed prominently on the first page of the directory. Telecommunications service providers shall not charge the Authority for the listing of the above information.
- (5) Incumbent local exchange telephone companies shall provide the Authority, upon request and without charge, at least one (1) copy of each of its directories at the time of publication.

- (6) White page directories shall contain instructions relative to placing local and long distance calls, calls to repair, billing questions, information services, and the mailing addresses of all local telecommunications service providers operating within the directory service area.
- (7) The cover of the directory shall include the area covered in the directory and the month and year of the issuance of or the intended life of the directory. Information pertaining to emergency calls to the police and fire departments, as well as a description of E911 emergency services, shall appear conspicuously in the front section of the directory.
- (8) Whenever any customer's telephone number is changed after a directory is published, the provider of local service shall, **if requested to do so by the customer**, intercept all calls to the former number for a reasonable period of time and give the calling party the new number ~~unless instructed otherwise by the customer~~.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-10 Emergency Service Provisioning

- (1) All telecommunications service providers shall take appropriate measures to meet emergency situations including, but not limited to, electricity failure due to weather conditions and sudden or prolonged increases in network traffic.
- (2) Within 180 days of the effective date of this Chapter, all telecommunications service providers shall satisfy the following:
 - (a) Central offices with installed emergency power generators shall have a minimum of three (3) hours of battery capacity to handle the peak-traffic hours.
 - (b) Central offices without emergency power generators on site shall have a minimum of five (5) hours battery capacity for use during the peak-traffic hours. These offices shall have ready access to portable power generators that can be connected prior to exhaustion of battery capacity.
- (3) In periods of prolonged and massive service outages, telecommunications service providers may limit local service to providers of essential services such as the police, fire and other emergency service providers.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.11 Construction of Telephone Plant

- (1) After the construction of plant by either the telecommunications service provider or its contractors, it is the duty of each telecommunications service provider to restore the construction site within a reasonable period of time to the condition in which it existed prior to construction.
- (2) Telecommunications service providers shall comply with the "Underground Utility Damage Prevention Act," as codified by Tenn. Code Ann. § 65-31-101 *et seq.*
- (3) Telecommunications service providers shall comply with all local, state and federal construction standards and codes.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.12 Customer Complaints

- (1) Each telecommunications service provider shall make a full and prompt investigation of customer complaints made either directly to it or through the Authority.
- (2) Each telecommunications service provider shall within ten (10) working days after receipt of a consumer complaint forwarded by the Authority file a written or electronic response with the Authority. This response shall state the telecommunications service provider's position regarding the complaint and actions taken to resolve the complaint. The time for filing this response may be extended by the Authority, upon request, for good cause shown.
- (3) Each telecommunications service provider shall make a good faith effort to cooperate with the Authority in resolving customer complaints.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.13 Accuracy Requirements

All meters or recording devices used by telecommunications service providers to prepare customers' bills shall be in proper working order and shall render accurate readings. Each telecommunications service provider shall retain sufficient records to substantiate compliance with this rule.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.14 Payment for Services

- (1) Each telecommunications service provider shall provide a variety of bill payment options to its customers including payment by check, money order or credit card. ~~A local telecommunications service provider shall assess no additional fee to the customer for utilizing a particular bill payment option.~~
- (2) Any partial payment of a bill by a customer shall be applied first toward the payment of ~~charges for local service~~ **tariffed charges**.
- (3) ~~A Telecommunications service provider's may recover an under-billed charge from a customer no more than two (2) years after the date the charge is incurred~~ **under or over billing may be recovered from or refunded to their end user customers no more than two (2) years for previous service charges**
- (4) Each telecommunications service provider shall allow each customer at least twenty (20) days from the date of the customer's bill to pay the balance before such bill is considered delinquent.
- (5) After a bill is considered delinquent, a written notice shall be mailed to the customer no less than ~~fifteen (15)~~ **five (5)** days prior to disconnection of local service for non-payment of a bill. Such notice shall inform the customer that his or her service is subject to disconnection by a date certain unless payment is received.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.15 Adequacy of Service

Each ETC shall ensure that adequate service is provided to its customers by properly maintaining its network facilities and implementing necessary engineering and administrative procedures.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.16 Service Obligations for Eligible Telecommunications Carriers

The following requirements apply to all ETCs offering service in the State of Tennessee. An ETC shall not be responsible for failure to comply with these requirements to the extent that such failure is caused by Acts of God, severe weather, or the actions of third parties who are neither owned nor controlled by the ETC. Nor shall the ETC be responsible for such failure in any exchange in which a declaration of a natural disaster or state of emergency has been issued by a federal, state, or local authority during any applicable measurement period. An ETC shall not be responsible for the failure to comply with these requirements when such failure results from the failure of the customer to provide reasonable access to the Network Interface Device.

- (1) An ETC shall provide an adequate level of service to all of its customers. Service adequacy shall include the following requirements:
 - (a) Access lines providing voice grade basic service shall be capable of carrying data speeds effectively not less than 14.4 kilobits per second when requested by the customer. For good cause shown, an ETC may obtain a waiver from the Authority of this requirement for a specific situation.
 - (b) **Within an exchange, the installation of primary service orders, where** ~~the construction of loop facilities is not required~~ **facilities are available**, shall be completed within an average time of ~~three (3)~~ **five (5)** working days, as measured on a monthly basis, unless otherwise agreed upon by the customer. ~~The starting time for this measurement will be the hour the service order is taken by the ETC with the close time being the time the service is installed.~~
 - (c) ~~Where construction of loop facilities is required,~~ **facilities are not available**, not less than ninety percent (90%) of primary service orders within an exchange shall be completed within thirty (30) calendar days, as measured on a monthly basis, unless otherwise agreed upon by the customer. In the instance of any order for primary service where ~~construction of loop facilities is required~~ **facilities are not available** that cannot be completed within thirty (30) days, the ETC shall notify the Authority in its quarterly service standard report the number of such incidences by exchange by month.

- (d) An ETC shall fulfill no less than ~~ninety-five (95)~~ **ninety percent (90%)** of its commitments to provide primary service on a date certain within an exchange as measured on a monthly basis.
- (e) An ETC that serves an exchange that has greater than 14,000 access lines shall have no more than ~~four (4)~~ **five (5)** trouble reports per 100 access lines in any such exchange as measured on a monthly basis.
- (f) An ETC that serves an exchange that has between 3,000 and 14,000 access lines shall have no more than ~~five (5)~~ **six (6)** trouble reports per 100 access lines in any such exchange as measured on a monthly basis.
- (g) An ETC that serves an exchange that has less than 3,000 access lines shall have no more than ~~six (6)~~ **eight (8)** trouble reports per 100 access lines in any such exchange as measured on a monthly basis.
- (h) **In** at least ~~ninety percent (90%)~~ **eighty-five percent (85%)** of out-of-service trouble reports, as measured on a monthly basis by exchange, service shall be restored within thirty (30) hours.
- (i) No more than ~~fifteen percent (15%)~~ **twenty percent (20%)** of out-of-service trouble reports, as measured on a monthly basis by exchange ~~shall be repeat trouble reports,~~ **shall be instances in which loss of service is due to the same cause reported and resolved in the previous 30 days.**
- (j) ~~Calls during the five (5) highest peak traffic hours within a calendar quarter shall be completed without failure ninety-eight percent (98%) of the time as measured on a statewide level.~~ **Ninety-eight percent (98%) of calls within a calendar quarter shall be completed without failure, as measured on a statewide level.**
- (k) A dialtone shall be provided within three (3) seconds on ninety-nine percent (99%) of calls within each exchange.
- (l) Each ETC shall provide sufficient facilities to accommodate realistic forecasted growth projections in access lines within each exchange.

~~(m)~~ Each ETC shall provide payment centers in convenient locations where customers can pay in person for telephone service.

(n)(m) Each ETC shall provide adequate means whereby its customers can contact repair service personnel at all hours.

~~(e)~~(n) Unless otherwise exempted as described in (n)(4) below, calls to the telephone numbers listed in the white page directory for an ETC's directory assistance, business office, and repair service ~~between the hours of 7:00 a.m. to 10:00 p.m. local time~~ **during normal business hours** shall be answered and measured on an aggregated quarterly basis, as follows:

1. When an ETC utilizes a live attendant to answer calls, the ETC shall maintain an average speed of answer time of ~~thirty (30)~~ **sixty (60)** seconds as calculated on a monthly basis. The speed of answer time shall be calculated beginning when the call arrives at the ETC's automatic call distributor or PBX and ends when the caller reaches a live attendant.
2. When an ETC utilizes an automated interactive answering system (hereafter referred to as "system") to answer such calls, the initial recorded message shall not contain any marketing or promotional information. At any time during the automated call, the customer shall be placed in queue for live assistance if the customer either elects the option for live assistance or fails to interact with the system for a period of time of thirty (30) seconds following any prompt. Once the customer is placed in queue for live assistance, the ETC shall maintain a ~~thirty (30)~~ **sixty (60)** seconds average speed of answer for such calls as measured on a monthly basis.
3. The percentage of abandoned calls – customer hang-ups – shall not exceed ten percent (10%) of calls as measured on a monthly basis.
4. An ETC that serves 100,000 or fewer access lines in the state and does not already have equipment installed necessary to measure answer time as of the effective date of this rule may petition the Authority for an exemption from this subparagraph. Such exemption may be approved by the Authority and shall be in effect until one of the following conditions are met:

- (i). The ETC serves more than 100,000 access lines;
- (ii). The ETC elects and is granted price regulation status pursuant to Tenn. Code Ann. § 65-5-209;
- (iii). The ETC installs equipment capable of measuring answer times; or
- (iv). The Authority receives 25 consumer complaints concerning slow answer time against the ETC within any twelve (12) month period of time.

(2) Carrier of Last Resort

Incumbent local exchange carriers have carrier of last resort obligations within their service area existing prior to June 6, 1995. Relinquishment of carrier of last resort obligations requires the approval of the Authority after consideration of how such relinquishment may affect the public interest.

(3) ETCs shall comply with all federal and state requirements.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.17 Quality of Service Mechanisms (QSMs) for ETCs

(1) Scope of Quality of Service Mechanisms

- (a) The Authority recognizes the importance of quality telephone service to the economic well being of Tennessee. Customer expectations for quality telephone service must not be compromised as the State moves toward a more competitive environment for local telephone service. To maintain quality telephone service for all consumers, the Authority has designed Quality of Service Mechanisms ("QSMs"). QSMs require ETCs to ~~compensate their customers within the affected exchange(s)~~ **make payments** for failing to provide an established level of service quality within a reasonable time. **The respective** QSM shall be automatically triggered by the ETC within the exchange where the ETC violates any of the provisions of Chapter 1220-4-2-.16(1)(b), (c), (e), (f), (g), (h) or (i) during any ~~three (3)~~ **four (4)** consecutive months within a calendar year. The consequences

of the QSMs shall be applicable within ~~thirty (30) days within a calendar year~~ **two (2)** calendar months following the ~~third (3rd)~~ **fourth (4th)** month that the ETC fails to meet the standards listed in the subparagraphs mentioned above. The ETC shall notify the Authority in writing ten (10) business days prior to such applicability.

- (b) ~~QSMs shall not apply in any month in which there is a declaration of a natural disaster or state of emergency issued by federal, state, or local authorities affecting the relevant exchange, or with regard to complaints or problems attributable to the actions of third parties who are neither owned or controlled by the ETC.~~ **QSMs shall not apply in any month in which they are triggered due to Acts of God, severe weather, or the actions of third parties who are neither owned or controlled by the ETC. Nor shall the QSMs apply in any month in which a declaration of a natural disaster or state of emergency has been issued by a federal, state or local authority affecting the relevant exchange. QSMs shall not apply when triggered by an instance caused by the failure of a customer to provide reasonable access to the Network Interface Device.** An ETC shall not recover the cost of QSMs from its ratepayers. QSMs are not intended to limit ETCs from providing higher levels of compensation to their customers for failure to provide timely and quality service.

(2) Installation of Primary Service Orders

- (a) Where loop facilities are available, an ETC shall waive 100% of the cost of installing primary service if the service order is not completed within ~~three (3)~~ **five (5)** business days, unless the customer requests a later installation date.
- (b) An ETC shall credit the affected customer an amount equal to \$5.00 per day for every day over ~~three (3)~~ **five (5)** business days the customer's primary service order is not completed up to a maximum of forty (40) days or \$200.
- (c) If the Authority finds that an ETC is knowingly not accepting orders for primary service within its franchise area, the ETC may have its state universal service support withheld for the affected exchange until orders are accepted. Any state support withheld

will be submitted to the ETC once compliance with this paragraph is verified.

- (3) **Customer Trouble Reports**
An ETC shall pay to the Authority ~~\$50~~ **\$10** for each trouble report within the affected exchange that exceeds the standard in 1220-4-2-.16(e), (f) or (g).
- (4) **Out-of-Service Clearing Time**
An ETC shall credit \$10.00 per day to the bill for local service of each affected customer if the out-of-service clearing time exceeds thirty (30) hours.
- (5) An ETC that has triggered QSMs shall submit to the Authority a monthly summary of information providing the number of customers within an exchange receiving the credits specified in this rule as well as any other information required by the Authority.
- (6) The remedial actions mandated by paragraphs (2),(3),(4) and (5) shall remain in effect until the ETC satisfies the service requirements within the particular exchange for three (3) consecutive months.

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

1220-4-2-.18 Lifeline and Link-up

ETCs shall offer Lifeline and Link-up in accordance with ~~the following~~ **orders of the authority and approved tariffs:**

~~(1)~~ **Eligibility Requirements**

~~(a)~~ ~~A Tennessee resident is eligible for Lifeline and Link-up if such resident's total household income is equal to or less than 125 percent (125%) of the Federal Poverty Level Guideline or if such resident qualifies to receive any one of the following public assistance benefits:~~

- ~~1.~~ ~~Food stamps;~~
- ~~2.~~ ~~Medicaid (not TennCare);~~
- ~~3.~~ ~~Supplemental Security Income (SSI);~~
- ~~4.~~ ~~Temporary Assistance to Needy Families (TANF);~~
- ~~5.~~ ~~Low-income Home Energy Assistance Program (LIHEAP);~~
- ~~6.~~ ~~Federal Public Housing Support; or~~

~~5. Any other program or service certified by the Authority to assist low-income citizens.~~

(2) Enrollment Procedures

~~(a) Each local telecommunications service provider that offers Lifeline and Link-up shall accept and act on requests from applicants to provide the telephone assistance program in a timely manner.~~

~~(b) Each local telecommunications service provider shall take reasonable steps to verify that an applicant meets at least one of the qualifications listed in 1220-4-2-.18(1)(a)1-7.~~

~~(c) An applicant determined eligible for Link-up is automatically eligible to receive Lifeline and shall be notified as such by the provider of local service that is providing the telephone assistance program.~~

~~(d) In the event of a dispute between the provider of local service and the applicant regarding whether the applicant meets the qualification criteria, the provider of local service shall inform such applicant of the applicant's right to refer the dispute to the Authority for resolution.~~

(3) Semi-Annual Verification Procedures

~~Each local telecommunications service provider that offers Lifeline and Link-up shall verify at least twice a year through the Tennessee Department of Human Services that its customers utilizing the telephone assistance program continue to meet the qualification criteria embodied in this rule.~~

(4) Notification Procedures for Discontinuing Lifeline

~~Each local telecommunications service provider shall provide Lifeline customers a thirty (30) day notice that such customers no longer meet the qualification criteria for the telephone assistance program, and shall inform the applicant of their right to dispute such determination to the Authority for resolution. Such notice shall be in written form and shall disclose appeal rights to the Authority of any decision to terminate Lifeline.~~

(5) Lifeline Support Credits and Allowable Charges

- ~~(a) Each local telecommunications service provider that offers Lifeline and Link-up shall provide the full federal and state credit amounts as reflected in Authority approved tariffs, to its eligible customers.~~
- ~~(b) Lifeline credits shall not exceed the charge for local service.~~
- ~~(c) Lifeline recipients shall not be assessed a fee for local number portability by telecommunications service providers.~~
- ~~(d) Lifeline recipients shall not be assessed a charge for toll blocking by telecommunications service providers.~~
- ~~(e) A local telecommunications service provider shall not assess a qualified Lifeline customer a security deposit if the customer agrees to subscribe to a toll blocking service.~~
- ~~(f) A local telecommunications service provider shall provide the same directory assistance call allowance to Lifeline customers as they provide to non-Lifeline customers.~~

~~(6) Link-up Support Credits~~

- ~~(a) A qualified recipient shall receive a credit for installing new or moving existing service as provided for by the Federal Communications Commission.~~
- ~~(b) A qualifying low-income customer who has paid full installation charges for service may retroactively receive the Link-up credit provided the customer notifies the provider of local service within sixty (60) days from the date of the completion of the service order.~~
- ~~(c) The purchase or installation of telephone equipment, such as the wiring of telephone jacks, does not qualify for Link-up support.~~

~~(7) Educational Outreach Efforts~~

- ~~(a) Each telecommunications service provider that offers Lifeline and Link-up shall establish a consumer outreach education plan, in coordination with the Authority, that will be aimed at informing the low-income population within its service area of the availability of the Telephone Assistance Programs.~~
- ~~(b) At the time of a request for installation of new local service or the transfer of existing local service, a provider of local service offering Lifeline and Link-up shall inform those residential~~

~~customers of the availability of Telephone Assistance Programs and how to receive the discounts. A copy of the script used by telecommunications service providers shall be made available to the Authority upon request.~~

~~(8) Lifeline and Link-up Reporting Requirements~~

~~(a) Each local telecommunications service provider that offers Lifeline and Link-up shall provide semi-annual status reports to the Authority stating the number of customers receiving the benefits of the telephone assistance program.~~

~~(b) Each local telecommunications service provider shall file other reports as required by the Authority in order to ensure compliance with this rule.~~

Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.

~~1220-4-2-.19 Telephone Numbering Conservation~~

~~(1) A telecommunications service provider, or any other carrier operating in Tennessee that is assigned telephone numbers by the North American Numbering Plan Administrator ("NANPA"), shall take all appropriate measures to conserve telephone number resources, which include, but are not limited to the following:~~

~~(a) Each telecommunications service provider, as well as any carrier assigned numbering resources ("NXX") by the NANPA within Tennessee, shall utilize sequential number assignment for telephone numbers within each 1,000 block of numbers in accordance with Authority and Federal Communications Commission guidelines.~~

~~(b) No telephone numbers in uncontaminated 1,000 number blocks shall be assigned until existing 1,000 number blocks where number assignment is occurring achieves at a minimum of seventy-five percent (75%) utilization rate or at the utilization rate determined by the Federal Communications Commission.~~

~~(c) Each telecommunications service provider that has designated rate centers within an area code shall take the necessary steps to consolidate its rate centers where deemed feasible by the Authority.~~

- ~~(d) Each telecommunications service provider that is capable of Local Number Portability (“LNP”) shall participate in 1,000 number block pooling as ordered by the Authority or the FCC.~~
- ~~(e) Each telecommunications service provider, assigned numbering resources by the NANPA within Tennessee, shall submit to the Authority upon request the results of a numbering resource utilization audit conducted by an independent auditor approved by the Authority.~~
- ~~(f) Any telecommunications service provider assigned telephone number resources by the NANPA within Tennessee shall return any and all unused or insufficiently used 1,000 number blocks as ordered by the Authority.~~
- ~~(g) Telecommunications service providers shall comply with any other number conservation measures ordered by the Authority.~~

~~Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.~~

~~1220-4-2-.2019~~

~~Enforcement Provision~~

~~Violation of the provisions of this Chapter shall be subject to the provisions of Tenn. Code Ann. § 65-4-120.~~

~~Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.~~

~~1220-4-2-.2120~~

~~Severability Provision~~

~~If one or more of the term(s) or provision(s) of this Rule or the applications thereof, to any extent, are held to be invalid or unenforceable, then the remainder of this Rule shall not be affected thereby.~~

~~Statutory Authority: T. C. A. §§ 65-2-102, 65-4-104, 65-4-106, 65-4-117, 65-4-119, 65-4-120, 65-4-123, 65-4-124, 65-5-207, 65-21-114.~~